

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Vanessa Ruiz, obo Zen Rodriguez,

Plaintiff,

V.

Commissioner of Social Security
Administration

Defendant.

Case No. 1:09CV1859

Judge Lesley Wells

Magistrate Judge McHargh

ORDER

This action brought pursuant to 42 U.S.C. § 405(g) and being before this Court either for entry of a Report and Recommended Decision or, upon consent of the parties for entry of final judgment, IT IS HEREBY ORDERED:

1. The defendant is granted a maximum of three (3) months from the date of the filing of the complaint to file an answer and transcript, provided that service of summons is made in a timely fashion. **No extensions** will be granted beyond the expiration of the three (3) month period **except upon a showing of good cause for extraordinary circumstances.**
2. Within thirty (30) days of the filing of the answer and transcript, the plaintiff shall

go forward with his/her primary submission. That pleading shall be no more than a total of twenty pages in length, shall be captioned as “**Plaintiff’s Brief On The Merits,**” and shall conclude with a statement of the relief sought. **No extension beyond that date will be granted other than on motion demonstrating good cause.** While a thirty (30) day period for filing is allowed, this Court expects that such submission will be filed at the earliest possible date.

3. In the event the plaintiff’s brief on the merits is not filed within thirty (30) days after the answer, the case may be subject to dismissal for want of prosecution without further notice.
4. The defendant’s response to the plaintiff’s submission shall be filed within thirty (30) days thereafter, shall be no more than a total of twenty pages in length, and shall be captioned as “**Defendant’s Brief On The Merits.**” If no submission is filed within that time, review will be undertaken based upon the plaintiff’s brief only. **No extension beyond that date will be granted other than on motion demonstrating good cause.** While a thirty (30) day period for filing is allowed, this Court expects that such submission will be filed at the earliest possible date.
5. If plaintiff chooses to respond to defendant’s brief, plaintiff shall file a reply brief of not more than ten pages within fifteen (15) days from the filing of the defendant’s brief.

PLEASE NOTE: Plaintiff’s brief shall first set forth a list of “Legal Issues,” followed by a recitation of “Facts,” and then an “Argument” or “Analysis” section. **In the “Facts” section, the brief shall cite, by exact and specific transcript page number, the pages relating these facts.** For example, a citation to a medical finding contained on a single page of a 20 page

Exhibit must cite to the specific page, not generally to the 20 pages of the Exhibit. **All facts relevant to the legal issues and discussion must be set forth in the “Facts” section.**

Defendant’s brief shall specifically address the legal issues and facts cited by plaintiff and **shall cite, by exact and specific transcript page number, all relevant facts in a “Facts” section.** The “Facts” section of both briefs shall accurately recite the record without argument, coloring, or “spin.” The arguments should be in the “Argument” or “Analysis” section of the brief, not in the “Facts” section.

The parties are expected to fully and fairly present to the Court all relevant evidence in the record, both favorable and unfavorable. For example, on issues involving an evaluation of the weight of the evidence, a party should not cite only to the evidence either rejected or relied upon by the ALJ. **A full recitation of all relevant evidence should be presented.** Briefs shall cite concisely the relevant statutory and case law supportive of the party’s position. **Any facts recited in support of the “Argument” or “Analysis” section of the brief must also be set forth in the “Facts” section of the brief.**

Any factual allegations or arguments relying upon the record that either do not cite to the record or are unsupported by the record citation will not be considered by the Court.

s/Kenneth S. McHargh
Kenneth S. McHargh
U.S. Magistrate Judge

Date: August 20, 2009